

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,
Plaintiff,

v.

ROSA BETANCOURT-FARFAN
Defendant.

Criminal No. 16-810 (PG)

SENTENCING MEMORANDUM

TO THE HONORABLE JUAN M. PEREZ-GIMENEZ
UNITED STATES DISTRICT JUDGE
FOR THE DISTRICT OF PUERTO RICO

“My intention was never to hurt anyone, or to break the law. But I
realize I have and I am sorry. I am so, so sorry.”

- Rosa Betancourt-Farfán

Last year, Ms. Rosa Betancourt made the biggest mistake of her life and had her first and only brush with the law. Prior to this case, she had never been arrested or had any contact with the criminal justice system. When confronted, Ms. Betancourt acted in accordance with her character and upbringing and accepted responsibility for her conduct. Rosa Betancourt-Farfán pleaded guilty to injecting liquid silicone into a human body, in violation of 21 U.S.C §§ 331(k), 333(a)(2), pursuant to a plea agreement with the United States. Docket No. 24. This substance is a Class III device that had not received FDA pre-market approval.

Mr. Betancourt performed these injections on patients who sought cosmetic modification. Ms. Betancourt believed that she was helping patients achieve a desired self-image in furtherance of improved self-esteem and quality of life. When she discovered that among her patients there

was at least one complaining victim who suffered from medical complications and side-effects, Ms. Betancourt quickly decided that she wanted to accept responsibility for her conduct.

Ms. Betancourt's commitment to her family has been her driving motivation. She is desperate to return to them, especially her elderly mother, in order to resume her role as provider and anchor to the family during this difficult time in Venezuela. Her conduct since her arrest demonstrates her commitment to accepting responsibility for her offense, moving past it, and ensuring she never steps outside the bounds of the law again. She offers the following by way of explanation for her role in the offense.

History and Characteristics

Rosa Betancourt-Farfán is a 60-year old Venezuelan national. She was born and raised in Caracas, where she lived with her parents and her ten siblings. She is still close with all of her siblings. Ms. Betancourt enjoyed a happy childhood in loving family and a close-knit, middle-class community.

Ms. Betancourt is a proud mother and grandmother. She fell in love and got married to Jose Vicente-Vargas. They were married for more than 30 years and had three children together, Mabel, Mervis and Cesar, before Jose passed away. Mervis passed away, though Ms. Betancourt informs that she thinks about him every day. She still enjoys an incredibly close relationship with Mabel and Cesar. Cesar especially, who has been saving whatever money he can scrape together since the inception of this case in order to be present with his mother at her sentencing hearing. In addition to Ms. Betancourt's seven grandchildren in Venezuela, another will be born in August. She describes her grandchildren as the greatest pleasure of her life.

Additionally, Ms. Betancourt enjoys the continued love and support of her second husband, Mr. Livio Guevara-Cadena. They married in 2005 and had been inseparable until this case. Livio

had to go back to Venezuela several months ago due to the pending expiration of his visa, leaving Ms. Betancourt here alone to answer for her case. He explained that leaving her was the hardest thing he had ever done, and that the only thing worse is their continued separation.



Ms. Betancourt's husband Livio with her youngest son, Cesar

Ms. Betancourt was also proud and honored to be responsible for her aging mother's care. Her mother worked for Ms. Betancourt's entire childhood in order to provide for her and her siblings. Now, Angelina Farfan is 83 years old and is suffering from various serious health conditions, including Parkinson's disease. Ms. Betancourt has been responsible for obtaining her mother's medication and providing for her care during this late stage of her life. Angelina Farfan was the quintessential model for a loving and strong matriarch who dedicated her life to the health and well-being of her family. When she became ill, Ms. Betancourt dedicated herself to doing the

same for her mother. She decided to make repeated trips to work in Puerto Rico in order to do so. But now that she is dying, the Ms. Betancourt is only focused on getting home so that she can be with her mother in her last days.

Angelina Farfan wishes to inform the Court that her daughter, Rosa Betancourt-Farfan, has always lived her life with respect for others and honoring the dignity of human life, that she does not have vices or malice in her heart, and has strived to support and sustain her family above all else. Specifically, Ms. Farfan informs that Rosa has been responsible for caring for her in her old age, and for providing her medicine.



Rosa Betancourt's mother, Angelica Farfan

Most importantly, Rosa has kept their family together and has instilled in her children the values of close family relationships. She has always shown herself willing to help and support her brothers, cousins, nephews, friends and other relatives. Ms. Farfan also wishes to inform the Court that Rosa is a very religious person. She has taught Ms. Farfan to read the bible, studies with her, and welcomed her into her religious community. Finally, Ms. Farfan begs the Court for leniency and the opportunity to be reunited with her daughter as soon as possible. She states that she is grateful to Rosa, despite her errors in this case, because she has enabled their family to eat when they were hungry and could not find food or money to pay for it in Venezuela, and has provided her medications which are also unavailable in Venezuela. She says that without Rosa, she would be dead.

Dozens of friends, family, and neighbors came forward to attest to Ms. Betancourt's good character, morals, and commitment to her family. Rossi Alejandra Pacheco Betancourt has known Ms. Betancourt for more than 20 years. Ms. Betancourt is her aunt, but really is more like a second mother to her. She states that Ms. Betancourt has always demonstrated herself to be a good person, honest and deserving of the trust of others. She informs that Ms. Betancourt has worked to support Ms. Pacheco's goals and dreams and that thanks to Ms. Betancourt, she credits her greatest achievements to Ms. Betancourt's help. Like Ms. Pacheco, several other women in Ms. Betancourt's community and extended family describe her as "second mother" because she is quick to provide emotional and economic support to those in need.

Life in Venezuela

Due to the political climate in Venezuela, life there has become particularly dire for Venezuelan citizens over the last few years. Ms. Betancourt worked hard to be able to provide for her family at home. She was especially concerned about her mother, whose expensive medication

is essential and is not covered by any health insurance or public medical assistance programs, which have collapsed with the deterioration of the government.

Ms. Betancourt counts herself among the lucky few still receiving a pension from the government of Venezuela. However, this pension is not enough to live on, and even if it were, due to food shortages, political violence and nepotism, and the current currency crisis, most necessities cannot be purchased on the free market anymore. Ms. Betancourt's pension of 2500 bolivars per month amounts to approximately \$246.77 per month.¹ It is important to note that even this simple conversion is somewhat misleading. This rate is limited by the Venezuelan government and is reserved for essentials such as food and medicine. There has been significant reporting that the exchange rate is deceptive because of the food shortages and the political situation in Venezuela now, everything is purchased on the black market, including food and medicine.² Currently, the Venezuelan central bank is only printing 100 and 50 bolivar notes because the 20s, 10s, 5s and 2s are worth less than their production costs. The Venezuelan government maintains the exchange controls but individuals have not had access to the currency at those rates. Instead, the black market exchange is the benchmark used by Venezuelan businesses and foreign investors.³ Now, the black-market price for US dollars is approximately 900 times the official rate.⁴

¹ Xe.com currency converter provides that \$1USD is equivalent to .099 Bolivars.

² “Venezuela Unofficial Exchange Rate Weakens Below 1,000 Bolivars/Dollar,” Reuters Staff, Feb. 3, 2016, available at <http://www.reuters.com/article/venezuela-forex-idUSL2N15I2R8> (informing that the currency has weakened to an 81% depreciation from a year ago).

³ See Venezuela’s Currency Weakens Past 2,000/Dollar on Black Market, Reuters Staff, Nov. 21, 2016, available at <https://www.reuters.com/article/venezuela-economy/venezuelas-currency-weakens-past-2000-dollar-on-black-market-idUSL1N1DM1AT>

⁴ *Coping with Catastrophe: How to Deal with Venezuela*, The Economist, Jul. 29, 2016

Venezuelan currency is routinely characterized as being in a “free fall,” with no sign of improvement.⁵ On November 1, \$1 USD was 1567 bolivars. By November 28, \$1 USD was 3480 bolivars. 1,000 bolivars saved would be worth less than \$5 now. As of August 9, 2017, inflation has reached 248.6 percent, with the rate of inflation quickening every month. However, “President Nicolas Maduro’s government has not published official data for more than a year.”⁶

According to the Economist, 93% of Venezuelans cannot afford food.⁷ This is due to Venezuela’s economic collapse, which has been worsening dramatically since 2012. The Maduro regime has proven to be one of the most corrupt and ineffective in Latin America, with officials embezzling billions of dollars. Maduro has legislated to centralize power and hold what seem to be uniformly characterized as rigged elections, provoking incredible violence and incidents of tear gas and police shootings. Over the last several months, hundreds of people have died and hundreds more have been imprisoned.

In addition to the rampant violence, Venezuelans are experiencing extreme shortages of food and medicine. Due to hospital closures and supply deficits, the infant mortality rate increased by 66% last year.⁸ Medicine especially is scarce. In order to receive treatment at a hospital, patients and their families are required to find and procure their own medicine on the black market.⁹ This includes long-term treatment medications, like Ms. Betancourt’s mother’s

⁵ <http://www.money.cnn.com/2016/11/29/investing/venezuela-worthless-currency/index.html>.

⁶ See, *Venezuela Inflation Quickens to 248.6 Percent in Year to July: Opposition*, Reuters Staff, Aug. 6, 2017, available at <https://www.reuters.com/article/us-venezuela-economy/venezuela-inflation-quickens-to-248-6-percent-in-year-to-july-opposition-idUSKBN1AP20X>

⁷ *Coping with Catastrophe: How to Deal with Venezuela*, The Economist, Jul. 29, 2016

⁸ *Id.* at 2.

⁹ *Venezuela, a Failing State*, William Finnegan, The New Yorker Magazine, Nov. 14, 2016.

Parkinson's medications, as well as urgent care trauma tools like "sutures, gloves, pins, plates," antibiotics like ciprofloxacin and clindamycin, adrenaline, and even saline.¹⁰

It was against the backdrop of this climate that Ms. Betancourt made the decision to travel to Puerto Rico in order to work and send money back to her family in Venezuela. Ms. Betancourt retired in 2005, but realized that she needed to do something in order to provide for her family, and specifically her mother's medication, in light of the horrible situation in Venezuela. One of her former patients, who had traveled to Venezuela from Puerto Rico years ago in order to receive the liquid silicone injection procedure, encouraged her to come to Puerto Rico if she wanted to work. Ms. Betancourt explains that she and her family, along with their fellow citizens, were struggling under a bad administration and a humanitarian crisis. "It was this desperate situation that led me to seek an exit to help my family." Ms. Betancourt was in the best position to try – "I had the greatest opportunity to travel [and work abroad] because of my profession."

No Intent to Harm

Ms. Betancourt is a retired nurse who worked for her entire career administering to patients in Caracas until she retired in 2005. For approximately 20 years, Ms. Betancourt was an expert in traumatology, and focused her on patients undergoing and recovering from plastic surgery. Ms. Betancourt worked as nurse and treatment specialist in one of the most well-regarded hospitals in Venezuela.

Ms. Betancourt performed liquid silicone injections there for many years to many happy patients, where the procedure is common. She even had the procedure performed on herself, and reported increased self-esteem and confidence due to improved body image. Though she knew it was illegal to perform the procedure here in Puerto Rico, without either FDA approval or the

¹⁰ *Id.* at 3.

requisite licenses to practice medicine outside of Venezuela, Ms. Betancourt believed the procedure to be safe, and never imagined that she could hurt someone by performing it.

Helping Others

Rosa is a religious woman who believes that something good can come from something bad. She says that she believes that she made this terrible mistake in order to learn an important lesson and to have the opportunity to atone. Ms. Betancourt was awarded bail in this case; however, after approximately two months, Livio had to return to Venezuela and Ms. Betancourt found herself alone in Puerto Rico confined to a rental apartment where she could no longer afford to pay the rent. She decided to self-surrender to MDC-Guaynabo because she could no longer afford to remain on bail conditions. But worst of all, Ms. Betancourt was despairing because she was unable to go to church while on home incarceration.

Ms. Betancourt is especially active in her church. Before self-surrendering, she spent most of her free time with the women she knows from bible study. These women appeared in court to support Ms. Betancourt at her arraignment and detention hearing, and opened their homes to her in order to offer bail conditions to the Court. Ms. Betancourt describes her religion as one of the most important things in her life, and one of the most powerful motivators to be a good person and make the most of her time. She even states that she does not have any regrets about having to surrender herself to MDC because doing so afforded her the opportunity to help others who are detained there.

During her time at MDC, Ms. Betancourt has been using her time as productively as possible. She was leading a bible study and teaching a knitting class. Despite never having any issues with drugs or alcohol, she completed the drug use course and was signed up for a painting class when she was transferred to Tallahassee due to Hurricane Maria. Because she completed her

education in Venezuela, Ms. Betancourt has also been helping other inmates study for the GED course.

Acceptance of Responsibility

Ms. Betancourt clearly and unequivocally expressed her remorse and accepted responsibility for her conduct since the beginning of her case. She did so again in the PSR interview with United States Probation Officer Annette Acevedo-Del Valle. She expressed that she was not trying to harm anyone and regrets doing so. She knows what she did was wrong, and submits that she acted in a time of extreme desperation for herself, her family and her country. She has learned the horrible reality that her actions were not the right solution, and regrets more than anything that she has to be away from her family. Especially now, with her aging mother's health quickly worsening and the availability of food, medicine and money becoming more scarce every day in Venezuela.

Despite her regret, Ms. Betancourt has also expressed a fair degree of optimism for the future. She says that hardship and error can make a person stronger, and she looks forward to returning to Venezuela with her unshakable faith strengthened by this experience so that she can help her friends and family there.

Recommendation

Ms. Betancourt pleaded guilty pursuant to a plea agreement with the Government. Under the plea agreement, the applicable base offense level under the United States Sentencing Guidelines (USSG) is 6. She receives a 4-level enhancement for causing damages more than \$15,000. She receives a 2-level enhancement for 10 victims or more. She receives another 2-level enhancement for using a special skill. After the 2-level reduction for acceptance of responsibility,

the applicable total offense level is 12. Because Ms. Betancourt is a true first-time offender, her criminal history category is I. The applicable USSG range is 10-16 months imprisonment.

Ms. Betancourt has been detained since she self-surrendered on April 5, 2016. As such, she has served approximately 9 months. The 3 months that she served on home incarceration before self-surrendering were especially onerous for her because she was not able to attend church or bible study, two essential facets of her religious practice and identity. Coupled with the 18 U.S.C. § 3553(a) evidence presented in this motion, and in consideration of the fact that Ms. Betancourt will return to Venezuela upon completion of her sentence, the defense requests that the Court sentence Ms. Betancourt to the low end of the range.

WHEREFORE, it is respectfully requested that this Honorable Court take notice of the present motion and that the same be granted.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the parties of record.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 15th day of January, 2018.

**ERIC ALEXANDER VOS
Chief Defender
District of Puerto Rico**

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